

ADMINISTRATIVE SUBPOENAS

PRIORITY STUDY ITEM BACKGROUND

MAY 15, 2013

Purpose:

- **The committee was assigned as a priority study item, by the Legislative Management Committee, the use of administrative subpoenas to obtain electronic communication records in certain criminal investigations (Utah Code § 77-22-2.5).**
- **The committee will present at a later date to the Legislative Management Committee a report on the work completed throughout the interim.**

SUMMARY OF KEY PROVISIONS IN UTAH CODE § 77-22-2.5

Administrative subpoenas under this section are limited to:

- the purview of electronic communication records by means of systems, services, or remote services;
- the investigation of one of the following criminal offenses: a sexual offense against a minor, stalking, or child kidnapping;
- the collection of an Internet subscriber's identifying information from an Internet Service Provider (ISP).

Identifying information: names, addresses, local and long distance telephone connections, records of session times and duration, length of service, network addresses, telephone numbers, and means and sources of payment.

PROCESS TO OBTAIN AN ADMINISTRATIVE SUBPOENA

1. A law enforcement agency has a reasonable suspicion that an electronic communication system or service or remote computing service has been used in a sexual offense against a minor, or a stalking offense, or a child kidnapping offense.
2. The agency submits an administrative subpoena to an ISP requesting the offender's Internet subscriber information.
3. The ISP responds to the agency.
4. Based on the information provided by the ISP, the law enforcement agency locates the residence and investigates.

ICAC

The Internet Crimes Against Children Task Force (ICAC), administered within the Utah Attorney General's Office, uses administrative subpoenas in the preliminary investigation of individuals who exploit minors using the Internet.

Administrative subpoenas are used extensively by the task force, especially compared to other law enforcement or prosecutorial agencies throughout the state.

HISTORY OF UTAH CODE § 77-22-2.5

Prior to 2009, a law enforcement or prosecutorial agency was required to work through the federal government to obtain and administer an administrative subpoena. In 2009, the Legislature passed H.B. 59, "Subpoenas for Records in Certain Criminal Investigations," which, among other things, provided for the issuance of administrative subpoenas by the state rather than the federal government. The policy decision aimed to alleviate administrative burdens associated with out-of-agency procedures.